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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,809	06/18/2001	Wolfgang Steck	1998P13024WOUS	2557
46726	7590	09/12/2006	EXAMINER	
BSH HOME APPLIANCES CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 100 BOSCH BOULEVARD NEW BERN, NC 28562			STINSON, FRANKIE L	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,809

Applicant(s)

STECK

Examiner

FRANKIE L. STINSON

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 4, 7, 18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6 and 8-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the dishwasher compartment with the pump being disposed on the out side of the dishwasher compartment must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 1746

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5, 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (U. S. Pat. No. 3,530,864) in view of either Japan'297 (Japan 10-103297) of Japan'393 (Japan 1-237393)

Re claims 1 and 16, Wright discloses a dishwasher having a washing compartment (9) and a pump (11) fluidically connected to the washing compartment for channeling liquid to the dishwashing compartment, the pump disposed outside the dishwashing compartment, and including a pump housing compartment, and including a pump housing defining an interior and housing a motor (not shown) and an impeller (not shown), a heater (12) for heating washing liquid, that differs from the claims only in the recitation of the heater comprising:

a heating device disposed on the pump housing in heat-conducting contact with the interior of the pump housing the heating device to provide heat-conducting. Japan'292 and Japan'393 are each cited disclosing the combination of a heater and pump for heating water where there the heater is located on the pump housing. It therefore would have been obvious to one having ordinary skill in the art to modify the device of Wright to have the heater and pump combined for the purpose of improving overall usage as well as heating efficient or for providing a more compact and inexpensive water circulation means. Re claim 2, Wright, as proposedly modified, discloses the heater on the outside of the pump housing. Re claims 5 and 6, no patentable distinction is deemed to exist between the heater as claimed and the corresponding structure in Wright, Japan'297 or Japan'939.

4. Claims 3 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the applied prior art as applied to claim 1 above, and further in view of either Jaworski (U. S. Pat. No. 4,349,434) or Germany'252 (Germany 36 40 252).

Claims 3 and 17 define over Wright only in the recitation of the heating device being disposed on the pump housing on the side of the pump facing the motor. This is deemed to be an obvious choice of design in that the position of the heater fails to present any change in the mode of operation of the device. Nonetheless, if desired to relocate the heater, the patents to Jaworski and Germany'252 are each cited disclosing a pump having a housing with a heating device disposed on the pump housing on the side of the pump housing facing the motor. It therefore would have been obvious to one having ordinary skill in the art to modify the device of Wright, to have the heating device on the pump housing facing the motor for the purpose of providing a more compact arrangement and is considered to be an obvious design choice. (see MPEP 2144.06

C. Rearrangement of Parts: In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.); In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice). However, 'The mere fact that a worker in the art could rearrange the parts of the reference device to meet the

Art Unit: 1746

terms of the claims on appeal is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for the worker in the art, without the benefit of appellant's specification, to make the necessary changes in the reference device." Ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984). Claim 8 defines over the Gibson only in the recitation of a bearing pad on the pump housing, for bearing the heating device on the housing, being made of stainless steel. Nonetheless, to employ one material over another material (as that material taught by Wright is deemed to be an obvious matter of design (see MPEP 2144.06, "SUBSTITUTING EQUIVALENTS KNOWN FOR THE SAME PURPOSED)). This also applicable to the applicable to the subject matter of claims 9.

5. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the applied prior art as applied to claim 1 above, and further in view of or Wright'500 (U. S. Pat. No. 4,594,500).

Claims 10-13 define over Wright'864 only in the recitation of the temperature/pressure/thermostatic switch. Wright'500 discloses the temperature/pressure/thermostatic switch (47). It therefore would have been obvious to one having ordinary skill in the art to modify the pump of Wright'864, to include a switch as taught by Wright'500, for the purpose of controlling the pump and thereby preventing damage to the same.

6. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the applied prior art as applied to claim 1 above, and further in view of Stover et al., Slayter, or UK 2,212,901 (UK'901).

Claim 14 and 15 define over Wright only in the recitation of the insulating layer and the protective cover. Stover, Slayter and UK'901 are all cited disclosing heating systems where there is provided a heating element, insulation and a protective cover. It therefore would have been obvious to one having ordinary skill in the art to modify the device of Gibson, to include insulation and a cover as taught by Stover, Slayter or UK'901, for the purpose of preventing injury to the user and/or the dishwasher.

7. Applicant's arguments filed June 29, 2006 have been fully considered but they are not persuasive. In regard to the remarks that there is no motivation to make the modification as suggested by the examiner, please note that to take known elements each functioning in the same manner and combine them is of little patentable significance in that this is consider to be a mere relocation of parts (see MPEP 2144.04 REVERSAL, DUPLICATION OR RE-ARRANGEMENT OF PARTS). It is understood that Applicant's invention is directed to a heater for a dishwasher, but the same is also direct to a heated pump, and the disclosures of the secondary references is therefore, considered reasonably pertinent.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 1746

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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FRANKIE L. STINSON
Primary Examiner
GROUP ART UNIT 1746